

The Right of the Child to be Heard: participation of children in care

Abstract

The Right of the child to be heard is crucial for children development and participation is a key factor for its implementation. Children in care need multiple opportunities to be heard and participate actively in decisions affecting them.

A literary review will be done to define the term and appreciate its benefits for children from a Social Work perspective. To analyse the Spanish situation, the Law system and the existing literature will be examined while participant observation held in a Residential Care setting will illustrate the reality analysis.

Participation in Spain protection system is not regarded as a priority. Children feel generally powerless and without any control of their lives.

There is a need to improve protection systems and increase Social Work research in the field in order to give children more opportunities to participate.

Key words: participation, residential care for children, social work ,the right to be heard

Resumen

El derecho del niño a ser oído es crucial para su desarrollo y la participación es un factor clave para su realización. Los niños que se encuentran en acogimiento residencial necesitan múltiples oportunidades para ser escuchados y participar activamente en las decisiones que les afectan.

Se definirá el término y se explorarán sus beneficios para el desarrollo de los menores desde una perspectiva del Trabajo Social mediante una revisión bibliográfica. Para analizar la situación española, el sistema normativo y la literatura existente será examinada a la vez que se pondrán ejemplos provenientes de la observación participante realizada en una Residencia de Menores para hacer un análisis de la realidad.

La participación infantil no es considerada una prioridad en el sistema español. Los niños generalmente sienten que no tienen el control de sus vidas.

Se necesita mejorar el sistema de protección español y aumentar la investigación del Trabajo Social en este campo para brindar a los niños oportunidades de participar.

Palabras clave: el derecho a ser oído, participación, residencias de menores, trabajo social

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“Children are the most photographed and less heard members of society” (Hart 1992).

1. Introduction

The concept of childhood has changed over the last centuries and International Treaties and National Laws are a reflection of this evolution. Before XX century, children were ignored in their rights and several historical changes have been necessary in order to change the legislation and recognise children's rights.

The United Nations Convention on the Rights of the Child in 1989 – UNCRC- has been an important milestone in defining the rights of the children and youth, giving the child a unique and important place in the society, not only as recipients but as subjects of rights. (Lansdown 2001).

One of the most significant and controversial aspects is the right of the child to be heard, being participation the key factor to implement it in the daily practice. We live in a society in which children must be protected. On the other hand, it is becoming increasingly difficult to ignore that children have a voice. But do we really listen to them? Is protection an impediment for self-determination and divergent thinking? The aim of the article is to defend the significance of participation, as well as the cultural and political forces that prevent it

in order to find Social Work practices which support participation of children in care.

This paper has been divided into 4 parts. The first section of this paper will examine the methods used.

The second section will explore the main literature about the topic to set a common frame. The definition of participation, research held in that area and its different levels and benefits will be explored.

Then the focus will be on the Spanish situation by analysing the law, the cultural role of children in society and the Social Work relevance in children participation.

A theoretical framework will be introduced in section 4 in order to show that participation is the base for Residential Care interventions in many countries.

Lastly, findings will be analysed to identify aspects for change and set basis for future research.

2. Method

First of all, I would classify this paper as a “pre- research” or an “exploratory study” due to the fact that further investigation must be conducted in order to obtain original findings. Nevertheless, social science methods have been used to obtain information and research: literary review, synthesis of the available information, participant observation and critical analysis. Besides, intervention changes will be proposed.

A literary review was carried out about participation of children in care. This is a recent topic and information was searched mainly in Social Work journals and scientific magazines though books played an important part.

Even though a great amount of information comes from countries where the main language is not English, there is a tendency to write in this language, so I could have access to the data. This does not mean that some important information could have been disregarded for language impediments.

Spanish law analysis regarding children participation has been held. Observations done during my internship in a Residential Care Unit for Children in Madrid, Spain have been crucial for the research.

During my stay I made field notes and a journal, but time spent with children was not enough to be able to systematise the findings¹. Thus, I would not regard this observation as scientific: Even though it was carried out with a plan and it was qualitative and I could not see many Social Worker- Child interactions to drawn definitive conclusions. Besides, other techniques should be used to analyse professional's and children's opinions about the participation process such as interviews or discussion groups. Nevertheless, observations will be used to exemplify some aspects and propose future interventions.

¹ It was a public residential unit for 39 children with ages from 3 to 17. They were divided in four groups: 9 kids from 3 to 8, 10 kids from 9 to 12, 10 girls from 13 to 17 and 10 boys from 13 to 17 years old. The observation was held for 400 hours. I only had full contact with kids because I asked to go during holidays to spend time with them. I spent 10 full days with the kids in the different groups. The rest of my internship I only had contact with children when I took them to make some IDs or legal documents. I mostly spent time with the social worker when children were not around. There is no agreement about the time that is needed for participant observation and the degree of systematization must be judged by the own researcher (Ander-Egg 2003)

3. Clarifying terms- Literary review

During the last years of the XX Century and the beginning of the current one, participation has been object of research in many countries due to the Article 12 of the United Nations Convention on the Rights of the Child. Participation is a politically correct term. It seems that the term is becoming popular but, as many other terminologies in social studies; there is no agreement about its definition.

3.1 What is participation?

Being heard does not necessary imply participation but it is impossible to truly listen to someone if that person is not taken into account as an active asset to the society, if that person's dignity is not respected. What is more, in the General Comment 12² that the UNCRC had made in 2009, participation is shown as an intrinsic aspect of the right of the child to be heard, completing Art 12 and making it more specific.

The UNCRC states (Art. 12) that children have the right to be heard in any judicial and administrative proceedings affecting them. According to the UNCRC (2009) "the term is used to describe on going processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into

² 20 years after de UNCRC made a specific document about participation because it was a right that had not been put in practice.

account and shape the outcome of such processes". This definition can be linked to personal characteristics, such as identity formation and dignity respect, crucial aspects in children development.

Other authors link participation with citizenship and democracy giving the concept a more social sphere. Hart (1992) states that participation is about the process of sharing decisions which affect the own life or the community, one aspect strongly related to democracy. In the same line, Lansdown (2001) connects rights and citizenship: if children are not heard they will not be able to learn how to defend their rights and thus, they will not be active actors in the democracy system we are supposed to live in.

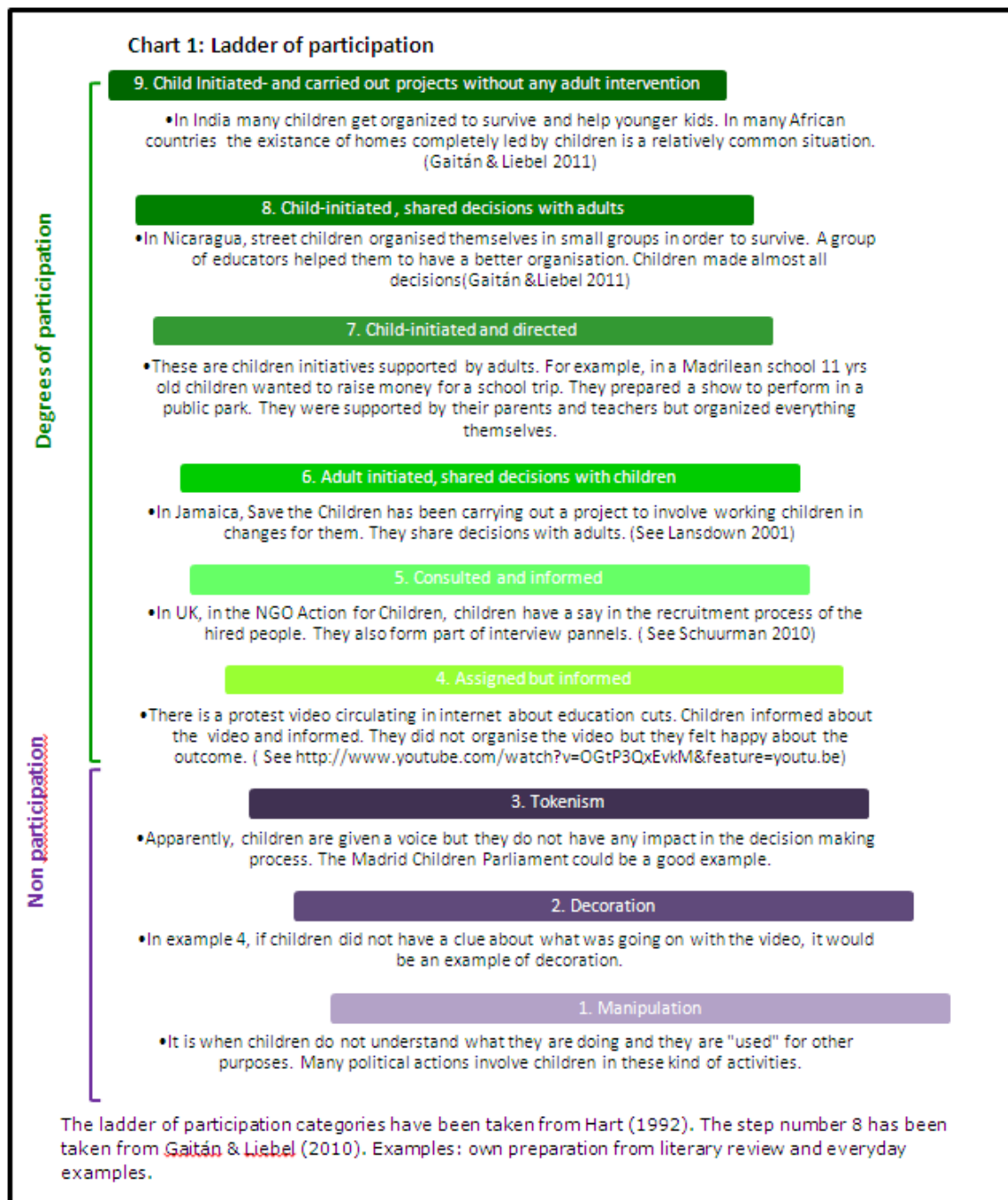
In this dissertation, participation will be defined as the process of truly involving children in decision making, not only in their daily life but in the policies and issues affecting them. This definition takes into consideration both the individual and the social aspects of the concept.

However, there are some degrees of participation in which the child can be involved that do not necessarily agree with the previous statement.

3.1.1 Not everything children do can be named participation...

As it is stated before, participation can mean different things to different people or organisations.

Many authors had classified different degrees of children's participation. One of the most important classifications has been made by Hart³ (1992)



³ Hart took Arnstein (1969) ladder of participation and adapted it for children. This classification has been chosen for being the most complete and widely used for academic purposes. In the daily life these different levels of participation might be mixed and the charts can be used to measure the degree of participation in projects.

As we can see in Chart 1, the first three steps in the ladder are not classified as actual participation. Children are exploited in order to obtain some “nice pictures” and pretend to be participating. As we observe the examples in the chart, these are very common in our society.

The actual participation can take place at different levels and the role of the adult is less important as the ladder goes up. The green steps imply a freedom of choice in participating, an aspect that generally make adults feel uneasy. The last steps of the ladder are not very common to find in our society and are the ones which contribute the most to children autonomy and citizenship. What is more, other authors such as Lansdown or Schoder (see Gaitan and Liebel 2011) add a different dimension: projects lead and done by children, without any adult participation. In the chart is represented by the “extra” step.

However, the meaning of participation is controversial and many initiatives are said to be participative but they do not take into account children’s opinions.

3.2 What are the benefits of participating?

International laws and treaties recognize participation as crucial in children lives and there is also research in other fields that supports children participation and abilities. For example, in Social Work, the empowerment of the service user is becoming a new tendency for

addressing social problems and age should not be a reason for leaving children aside.

Another example comes from psychology: It has been demonstrated that the industry⁴, the ability to accept and take over challenges, is more important for future success than intelligence. Industry is mostly reached by active participation in daily life (Marcia 1966, as cited in Meeus & Ledesma et al. 1998). As regards sociology, in the 8^o Conference of the European Sociological Association (2007) there were seven conferences about children participation and its importance for the society. (Casas et al. 2008)

When analysing how beneficial participation is for children, there is an agreement among the authors: participation makes children feel more confident and thus their self-esteem can be enhanced. It also contributes to prepare more committed citizens, being participation the roots of democracy. The benefits address the two spheres of the concept we mentioned before: the individual and the social.

In the academic fields there is a strong emphasis in the positive outcomes of child participation in Residential Care, mostly in Northern European countries and lately in UK (Lone 2012; Lansdown 2001; Petrie et al. 2009; Winter et al 1999). However, many people think children should only worry about children matters and they would not

⁴ Erikson is one of the most important and influential developmental psychologists. He mainly states that children build their personality according to the responses of the people that relates to the child and the environment. (See Erikson 1971) For a detailed study about Erikson's concept of autonomy and development stages see Graves & Larkin 2006.

choose the right options at all (Hart 1992). Summing up: adults know better.

Several attempts to understand children's point of view in residential care have been included on books and academic articles (Burke 2010, Cashmore 2002, Timonen- Kallio 2012, Ombudsman 2009, Maillo et al. 2001, Morgan 2009, Rosendal 2012, Hart 1992). Even though the articles come from very different countries, there is a consistency in children narratives and adult's interpretation of them: children feel powerless and without any control of their lives. Most of the times they are not provided accurate and well explained information.

This can have a negative effect on children affecting their behaviour in all spheres of life. Besides, the authors mentioned above also claim that participation can contribute to a better development. If children and teenagers feel they are truly heard and their opinions are taken into account seriously, they can develop a healthy self-esteem and self-concept. It is important to add that these two aspects are positive factors for resilience: overcoming of very difficult and extreme situations.

3.2.1 Research that indicates participation is beneficial for the child development

According to Thomas (2010, in Schuurman 2010) the research evidence of participation benefits is not overwhelming, but enough

and really hard to be rebutted. Furthermore any research showing participation have negative effects could be found.

A considerable amount of literature has been published related to the right of the child to be heard and the participation process.

Even though most of the authors are European, experiences held in this continent seem to be less participative and really hard to implement. There are experiences at different levels: children participating in policy designs, at a community level, at schools and in the legal procedures.

Research held in Northern European countries and UK is more systematic and consistent as regards participation in residential care but, most of the studies are supported by government policies and funds⁵.

During the literary review it has been difficult to find consistent and non-government funded research about children in residential care: in most of the countries literature is either succinct or non-existing. As Casas (2008) states, many of the initiatives which take place in residential care are not written down, due to working conditions, and budget, training and time constraints.

⁵ The most significant example of research has been held by the U.K government in the last two decades and it was done to improve Residential Care standards, a consequence of the 1989 Children Act. A social pedagogy pilot programme was held in England in residences on the basis that this approach had provided evidence of better outcomes in children in care in Northern European countries (Petrie et al. 2006 in Cameron et al 2011). This approach shows participation is crucial and very important for the interventions. For further information check Cameron (2011). See also Lone (2012) for a Norwegian project, Timonen Kallio (2012) as an example of a Finish project, Rosendal (2012) with an innovation practice project in residential care in Denmark, Macdonald et al. (2012) for a Northern Ireland project.

In the European society we live in, children are there to be protected and adults are “afraid” of children getting together without their supervision. So, nobody can deny that children are able to participate but, do adults want to give them so much power? Is it possible to implement research on participation in Spain? These questions lead us to the next section: the analysis of the Spanish situation.

3.4 Protecting our children: how the nice concept of participation is implemented in Spain.

Even if the UNCRC is a binding document, no mechanisms had been implemented to impose the duties on the governments. When some aspect is not implemented, they just make a politically correct recommendation and nobody makes sure the situation is amended⁶. In their analysis of the UNCRC, Gaitán and Liebel (2011) state that there are inconsistencies between the international laws and the internal policies of each country. What is more, richer countries are more likely to protect children’s rights.

In this segment, Spanish laws and practices will be analysed to have a better picture of how the concept of participation is regarded. For the purpose of this essay, Madrid legislation will be analysed⁷.

⁶ For example, the UNCRC Commission made a Commentary about the right of the child to be heard because it was not respected but the governments did not endure any kind of sanction.

⁷ Even if it would be interesting to analyse legislation of all the Spanish regions, Madrid has been chosen for space constraints and because it was the place where the observation had taken place.

3.4.1 Laws involved: International, national and local level

Many international and European Laws⁸ had ratified the right of the child to be heard and thus participation. Spain has signed the UNCRC and the legal documents protecting childhood mention this right. The main national law about children protection is the Organic Law 1/1996, January 15th, of Judicial Protection of the Child⁹. In this law, the right of the child to be heard is present in Article 9¹⁰. In addition, related rights, such as the right of information, freedom of expression and active participation appear in Articles 5, 7 and 8.

As we can observe, the normative is specific about the scenarios in which these laws should be applied: judicial and administrative procedures that concerns the minor and within the origin family, foster family (Civil Code Art 173) and school context.

However, there is no detail regarding residential care besides the mention of the Article 21.1 Organic Law 1/96 where it is stated that the child must participate of the "Individualized Educative Project"¹¹.

It is clear that the most important factor in these articles is that the government appears to be the main guarantor of this right. The law does not put emphasis on the NGO's or the family responsibilities in relation to this right so more attention is paid to judicial and formal

⁸ European Charter of Children's Rights. July 8th 1992; European Convention on the Exercise on Children's Rights. 1996 ratified in 2000 Art 6; Charter of Fundamental Rights of the European Union 2000, Art 24; European Constitution .Art II.85.1

⁹ Ley Orgánica 1/1996, del 15 de enero, de Protección Jurídica del Menor.

¹⁰ See appendix 1 to read the full translated article.

¹¹ Proyecto educativo individualizado

settings, leaving aside aspects of the daily life, much relevant for children.

In Spain, the responsibility of child protection mainly belongs to each Autonomic Community, so there is more extensive legislation about the issue in each region of Spain in accordance to the main law. This responsibility is generally attributed to the local administration in order to be closer to the community and solve the problems people really need. However, sometimes it results in a big dispersion and differences in laws and procedures within the same region.

The most important Law in the Autonomic Community of Madrid ¹² is the Law 6/ 1995, March 28th, of Guarantee of the Rights of Childhood and Adolescence¹³ . In the principles of the Law, participation has an important place¹⁴.

Participation is regarded as important but it is presented as something external that must be led by the adult (especially a civil servant) and not as something that the child can emerge with.

The autonomic law states that education and democratic practice are requirements for protecting children, with the promotion of social participation and active involvement. Besides, there is a whole

¹² Comunidad Autónoma de Madrid

¹³ Ley 6/1995 de Garantías de los Derechos de la Infancia y la Adolescencia.

¹⁴ See article 3. B) G) in appendix 2

chapter for social participation¹⁵, being the government its guarantor not only in the society but in the living environment of the child.

There are also two articles about Residential Care¹⁶, where participation in the design and promotion of activities and in the norms of the centre is seen as a right. There are also decrees which expand the normative in order to make it more practical. The 88/1998 Decree of May 21st, Statute of Residential Care for Childhood and Adolescence,¹⁷ mentions participation not only in the development of the rules but in its principles¹⁸.

There are also some public organisms created to reassure children protection, as it is the case of the Madrilenian Institute of the Minor and the Family¹⁹, which is responsible for children protection and coordination with Social Services. Besides, there is an ombudsman²⁰ to safeguard the rights of the children, receiving and formalising complaints, defending the exercise of the rights. In the judicial settings, is the Public Prosecutor²¹ who is in charge of the defence of the rights and the legalities of the procedures. There used to be a children's ombudsman in Madrid but due to cuts in Social Services, this institution disappeared. Many authors have agreed that neither the ombudsman nor the public prosecutor are active participants in

¹⁵ Chapter X. Art 23. See appendix 3.

¹⁶ Arts 65 and 66

¹⁷ Decreto 88/1998 de 21 de Mayo por el que se aprueba el Estatuto de las Residencias de Atención a la Infancia y Adolescencia

¹⁸ To see the translated articles related to participation check Appendix 4.

¹⁹ Instituto Madrileño del Menor y la Familia

²⁰ Defensor del Pueblo

²¹ Ministerio Fiscal

the child's life in the residential care home. In the Madrid Autonomic Community, in 2006, the Children Participation counsel of the Children's Ombudsman²² has been created in order to give children a formal way of participating. However, during my research I could not find information about the continuation of this initiative.

The normative in the previous laws regarding participation is more extensive in judicial settings and a less specific in informal areas such as the family or residential care. The right to be heard in court proceedings is a matter of discussion in the academic and judicial fields (Caso Señal 2011 et al.; Morán Gonzales 2010; Martinez Ruano 2009; Blanco Carrasco 2007; Palma del Teso 2006). It is not seen as an absolute right but as a very important one. This is also the case of the STC²³ 163/2009 and STC 17/2006 where child hearing is given a great amount of importance by the Constitutional Rights Court. In the first case the appeal for not hearing a child was denied due to the maturity of the child²⁴ and in the other one the importance of child hearings is addressed. There is also increasing concern about how child hearings are held in court (Caso Señal 2011).

²² Consejo de Participación Infantil del Defensor del Menor

²³ Constitutional Right's Court Sentence

²⁴ The first case STC 163/2009 is about two parents fighting for the custody of a child. The mother of the child appealed the magistrate's resolution, among other things, because the right of the child to be heard was not present during the procedures. The Constitutional Right's Court dismissed the appeal saying that the hearing did not take place because of the child's age (only 5 yrs old) and because a psychologist had already done a hearing that had been taken into account in the process.

The second case STC 17/2006, is about a father of two children who appealed to modify the custody resolution in favor of the mother, due to the fact that one of the children was living with him. In this statement, he asked for a new hearing of his daughters in order to ask them with whom they were living with. The Public Prosecutor agreed to the petition and a new hearing was agreed. The hearing was held without a Public Prosecutor representative, because the Magistrates Court did not allow his presence. The Public prosecutor appealed the hearing, alleging lack of proper material defense. The Constitutional's Right Court dismissed all the arguments the Magistrate Court used to not taking into account the hearings because the first hearing was held without any Public Prosecutor presence and nobody complained before.

However, there is a considerable gap between what it is legislated and what it is actually done. As Bosch Valero (2010) noticed during the exploration of the existing legislation, the minors and their families do not have access to lawyers or advocates to help them during the child custody trial²⁵ and the interest of the child is not followed.

There are also discrepancies between the laws and the reality in the judicial processes involving taking the guardianship. In his Report about Protection Residences for children with behavioural disorders, the Ombudsman (2009) reports difficulties in involving children in these judicial decisions that are very important for their life and development. Children do not have much information or control in the decisions affecting them, not even at the beginning of the judicial or administrative processes (De la Herrán, García and Imaña 2008; Amnistía Internacional 2009), which contradicts the right of the child to be heard.

The right of the child to be heard and thus the right of participation is paramount consideration in the international, national and local legislation. However, to make participation a fact, not only the laws must change but also the mentality of the society. The social construction of childhood affects the way the law is implemented and thus the way children are regarded.

²⁵ As children custody is an administrative procedure, a public advocate is not provided by the administration.

3.4.2 Cultural perspectives about children in Spain

One of the most important factors for participation is culture. A society which does not regard children as capable would not permit their participation.

As many authors agree, children are regarded as less competent than adults in many areas (Casas 2008; Gaitán Liebel 2011). People prepare their children for the future but society does not recognise the importance of children opinions in the meantime.

Even though the adult- child relationship has changed towards a more equal one, the belief that “adults know better” is evident in the daily life. There is also a fear of losing authority, due to the control of the technologies children are showing nowadays, or of the reluctances for changing traditional methods of teaching.

Besides, protection and participation seem to be in a dichotomy, as if one term was not possible in the presence of the other. This dichotomy is especially relevant for children in care because the civil liability belongs to the Autonomic Community.

3.4.3 Participation in residential care and Social Work

As we could see in the previous sections, the term of participation is well known not only by academics but by government representatives. However, there is still a long way to go to achieve levels of real participation. After 20 years of the UNCRC, UNICEF Spain (Arias et al. 2012) made a report about the areas each

government should improve. A great deficit has been found regarding children participation as well as lack of prominence of children in the social and political agenda.

Among the measures that governments implement in children protection, residential care is regarded as “the last resource”. In addition, there is an agreement that family settings are better for the children development (Palacios Gonzalez 2010), but there is not much emphasis in looking for foster families.

Children in Residential Care suffer from exclusion the most and have chaotic and unpredictable lives so they need “multiples opportunities to be heard and seen” (Timonen- Kallio 2012, 38). What is more, they face more difficulties in exercising their right to participate: many decisions in their lives are taken without letting them know.

In 2009, Eurochild carried out an important systematization of data about children in care in Europe. The Spanish part was answered by a representative²⁶ of the General Directorate of Social Policy, Families and Children. The question about participation was not even answered: a silence worth a thousand words.

Participation in residences must be held in each residence through a representative commission and involvement of the individual plan. Social Workers should work in partnership with children to help them understand and assimilate their situation.

²⁶ Juan Carlos Mató Gomez

However, in Spain, Social Work is generally divided from the professionals who educate children on daily basis. In the Autonomic Community of Madrid, social worker's job description only includes a few aspects that have to do with the child and its participation, even though this active involvement is crucial for SW theory and practice. These activities include: interviews, elaboration and follow up of the individualized educative project and the design and implementation of social skills programs.

Evaluation of residences is another important issue. Fernandez del Valle (1999) made a report about the evaluation of standards in residential care. Even though there has been a great shift from beneficence to education, participation is not even mentioned in the whole report. That is to say, participation is not regarded as important in daily basis for most of the Autonomic Communities of Spain.

Besides, there is a lack of consistency in the methods or theoretical backgrounds Social Workers use as references to intervene with children in care.

4. Social Pedagogy and Social Work

During the literary review many authors stated that a framework is needed in order to intervene with children in care. Is there a background theory that is better for children in care?

Social pedagogy is not a method, but a discipline that is regarded as important for social workers and shares the same principles. So, what does social pedagogy have to do with children in care? Petrie et al. (2009) state Social Pedagogy has been adopted as the new tendency to work with children in care. Besides, there is evidence that shows that young people in residential care have better life and better outcomes in countries where social pedagogy is central for the policy, training and practice.

Hamalainen (2003: 75), one of the most important theorists of Social Pedagogy, makes a definition that is related to social work.

“Social pedagogy concentrates on questions of the integration of the individual in society, both in theory and in practice. It aims to alleviate social exclusion. It deals with the processes of human growth that tie people to the systems, institutions and communities that are important to their well-being and life management. The basic idea of social pedagogy is to promote people’s social functioning, inclusion, participation, social identity and social competence as members of society”

The Thomas Coram Research Unit in England (Petrie et al. 2009) identified in research some principles related to Social Work and Social Pedagogy in Residential Care:

- child seen as a whole
- in the relationship, the practitioner is regarded as another person
- the practitioner does not belong to a different hierarchical space. Space is shared.
- use of theory for practice and practice to make theories.
- children's associate life is crucial
- the professionals are practical and creative
- children's rights do not only appear in papers
- emphasis on group work and families.

Social pedagogy is a lens social workers can see through in their interventions. What is more, in many European countries social work and social pedagogy are not regarded as something different but as integrated in the practice. Participation has a crucial factor in this discipline, including children interventions.

Social Pedagogy is not very common in Spain though it is related somehow with social education.

5. Results and discussion

During the literary review we discussed the term participation and its benefits for children in care. What is more, we could see that it is supported not only by academics from different fields but also by international, national and local laws. However, there is no certainty or many hopes about the possibilities of its implementation. In the following section of analysis, examples from the observation will be added to illustrate aspects of the kind of participation that exists in Spain²⁷.

5.1 Situation diagnosis

Systemic theory²⁸ will be used in order to have a structure to analyse the environments of the social reality. It may also help as a frame to evaluate practices because it takes into account multiple factors that interfere with the life of the child. During my literary review I have not encountered such type of analysis regarding this issue. However, it is generally considered for sociological practices. (Rubio & Varas 2004).

As participation is a crucial part of development, this explanation will be used as a framework to try to understand the reason why it is not

²⁷ It is important to say that the reality I observed only shows a part of the protection system the Madrid Community has.

²⁸ Systemic theory is a sociological theory that helps us to understand that individuals are immersed in a wider society and how these economic, political and social factors influence development. Bronfenbrenner (cited by Wilson 2008) believed that a person is immersed into five different spheres during the course life and that development is a result of the interaction of all of them. A change in one of the systems affects the other systems in a feedback process and that is why it is important to understand the interrelation of them.

fully encouraged nowadays and to identify aspects for change and innovation practice.

Examples observed in this Residential Care unit that relate to each sphere of analysis will be presented and discussed.

Microsystem²⁹

The child's microsystem considerably differs from other kids' experiences:

- They have multiple "close" structures: family, educators³⁰, social workers, psychologists.
- Most of the children feel they do not belong to any of these structures.
- They do not even have a voice in their Education plan. The objectives are not created in partnership with the child regardless the age of the child.
- Most of the children who participate in the Board state their opinion is just heard but not considered.

It is in this system where participation must primarily take place in order to be transferred to other spheres of life. Every person is supposed to have an impact in these interactions. However, it seems that in this context children are not able to fully participate to change

²⁹ This system refers to the activities, roles and interpersonal relationships that the child experiences in a direct way. E.g: family system.

³⁰ This word is a direct translation from the word is used for the people who work directed with the child "educadores".

certain aspects what may influence their self-esteem and image of the self. The sense of belonging is another aspect to consider. If children feel they do not belong they will not participate at all. During the literary review I could not identify many reports about children's opinions of residential care. The ones that I could have access to reported children felt they did not have any control on their lives or in the decisions affecting them (Ombudsman 2009, de la Herrán et al. 2008). Besides, not many opportunities for participation are facilitated by practitioners.

Mesosystem³¹

- Professionals make an effort to get children involved in the community and to maintain the contact of the biological family.
- Children are sent to different schools and visits to friend's houses and Birthdays are encouraged. Thus, formal inconveniences must be sorted out.
- Extracurricular activities were encouraged in the past but, because of budget reductions, they are not very common nowadays.
- Many children expressed they felt some people left them aside or did not include them because they were institutionalized.
- Only a few children chose to join some kind of association (2 of the boys were part of a football club).

³¹ The term comprises the inter relations between two or more contexts the person fully participates. E.g: school, family, group of friends, and their relationships.

-The quality and characteristics of the family interaction differ from each child and the reason of their protection measure.

It was identified that the institution made efforts to open up to the community and to improve relationships with other institutions. However, during the literary review it was clear that practices to make children closer to other institutions are not always regarded as a priority and isolation is a fact (Ombudsman 2009, Amnistía Internacional Sección Española 2009). Children in these settings have less opportunities to participate in the social life and are sometimes excluded from the society (Torralba Roselló 2006).

Exosystem³²

-Parent's socioeconomic background is generally another risk factor for these children. The social expectations towards young people that have a family with a past marked by exclusion and social problems are lower compared to other children (Millie & Jacobson et al. 2005)

-Government representatives make many decisions about their future and development without getting to know them.

- Many professionals feel the "burn out" but they are not able to change their jobs or take a break from the kids. Spain is enduring an

³² Refers to a larger system in which the child does not have a direct contact but influences his life. E.g parent's job position.

economic crisis in which the possibility to change a job sounds remote.

- Shifts are fixed, what prevents the conciliation between family and career.

- Most of the workers are afraid of losing their job position and many others have "strange" contracts such as just working on weekends or holidays.

- Spanish ratio is very low compared to other parts of the world: e.g. there is only one educator for each shift for 8 teenagers.

These working conditions can have a negative effect on children. To be able to encourage participation, patience and dedication is needed. Besides, the identification of the professionals with the institution is very important for quality intervention.

It has been observed that when children are about to go to a foster care family, their opinions are taken into account. However, it is clear that it is more due to the future implications of the negativity of the child than because of their willingness is being respected.

Children feel they are not considered and that decisions are taken without even expressing their opinion. Society's low expectations are added to these feelings, contributing to a low self-esteem and negative image of the self.

The context of control in which children are immersed provides a justification for the restrictions and the great quantity of rules they

are subject to, allowing less space for discussion and direct participation.

Chronosystem³³

- Children are allowed to make more choices as long as they grow up.
- There were so many rules that children could not decide almost anything. When decisions took place, they were exceptions to the rules. For example, the younger ones could not choose what to wear except one day a week. Though this example might seem anecdotic or trivial, exemplifies the little choice children have in these environments.

The premise “adults know better” is predominant in these settings. Children are heard but when their words do not meet the expectations, all they say is regarded as meaningless or not important.

It is obvious that culture contributes to this image of childhood and seen them as not fully developed persons will not help to allow participation.

Even though there has been a considerable change in the protection system to make it more opened to the community and with an

³³ It relates to the dimension of time in the child's environments: the age of the child and the current historical time.

educational purpose, (Palacios Gonzalez 2010) many improvements should be done to finish with this transition.

Mesosystem³⁴

- Children do not have any impact in policies and are never consulted about them.
- The law system does permit participation and encourages it. For example, children older than 12 yrs old must sign the guardianship contract and smaller children are consulted for foster care procedures.
- There are not many controls and evaluation plans about residences that take into account participation.
- Professionals involved are not always fully trained in children education and innovation practices.
- Participation is not regarded as a crucial aspect to intervene.

Taking into consideration that not even professionals are consulted in law changes, allowing and encouraging children to participate sounds like a dream. Many attempts to address this issue have been started without much success. For example, as we saw in previous sections, a child's parliament has been created in Madrid but reality has shown that it was participation at the first level of the ladder: just pretending.

³⁴ It makes reference to the cultural values, customs and laws.

Even though the Laws consider participation, they are not fully developed and the Decrees only mention participation in the educational project. Child hearings in court proceeding are considered but usually disregarded in formal procedures.

Regarding evaluation, not many evaluation programs consider participation as an important aspect and thus they left it aside³⁵.

Training and supervision are important aspects that affects the quality of the education programs but they are not very common in these settings.

³⁵ Many examples of programs and the way they were evaluated can be seen in the projects that have been mentioned in Chapter 3.2.1.

6. Conclusion

This essay has argued that participation is a beneficial and necessary aspect for children development, especially for children in care. Besides, it has been demonstrated that participation helps to improve education standards.

I could come to the conclusion that the last two steps in the ladder of participation we mentioned above can be classified as utopic at this moment in this society.

It is well known that children are capable of organising themselves, for good or bad, but most of the examples that have been found refer to extreme situations, in which they have to survive or run away from an awful reality.

In my opinion, participation is possible. It has been shown that children are capable to do it with adult's help and support. However, some changes should be carried out in order to improve services.

A. First of all, there is a need for change in the children protection policies, implementing better working conditions for the professionals and smaller facilities to be able to have closer attachments with the children. Training is an aspect that cannot be left aside. Needless to say government initiatives are crucial for changes in the daily practices.

B. It is clear that the change should not come only by the government but from the society. A shift in the attitudes toward children and their participation is needed in order to give them opportunities to express. If society starts witnessing experiences of children participation, a gradual change can start. This point leads us to the next one: the necessity of academic support and evaluation of participation practices.

C. There are examples of participation in Spain (Casas 2008, Schuurman 2010) but I could not find research conducted in residential care units for children about the participation process. So the topic is becoming more common and it is seen gradually as something fundamental.

This lack of consistent research and experiences might have two main reasons: the topic of participation is rather new and time is needed for improvement or nobody thinks it is possible. Another possibility can be that many aspects of participation must be exercised in the daily practice and are hard to systematize and include in a Social Work or Psychology magazine.

The interrelation of theory and practice is crucial for innovation. In research held in Northern countries³⁶ it was proved that when using a methodology or a theoretical set framework improved the quality of the interventions.

³⁶ See again projects in section 3.2.1

There is an agreement about the most appropriate way to conduct research about children participation: participating. Children can participate in research: conducting the interviews, saying their point of view, and even proposing research topics and ways of carrying it out. It has been demonstrated that the user perspective is essential to understand a reality and children should not be an exception³⁷.

There is also a need for further research about the beliefs and cultural values regarding childhood and adolescence. Children opinions must be considered and multiple factors taken into account.

Meanwhile, small projects destined to encourage participation can be held with few resources³⁸. These projects may lack the whole government support that is needed, but professionals can seize the institution interstices to find new ways of intervention. Knowledge, evaluation and action research can help to improve practices on daily basis. That means that the most important resource is knowledge and creativity, that things can be done no matter what cuts in service the governments implement.

³⁷ In the projects we mentioned in point 3.2.1 there are examples of Action research. Gaitán and Liebel 2010 also provide guidelines to conduct research with children.

³⁸ An example of this Project can be found in appendix 5. Even though it has not been implemented yet, it had been done considering the Residence in which I had my internship.

7. Bibliography

Amnistía internacional Sección Española (2009). España, menores en centros de protección terapéuticos "Si vuelvo, me mato!". Retrieved November 2012 from Amnistía Internacional : <https://doc.es.amnesty.org>

Ander-Egg, E (2003) *Métodos y técnicas de investigación Social IV. Técnicas para la recogida de datos e información*. Grupo Editorial Lumen: Buenos Aires.

Arias,M; Bello, A; Von Bedrow, M; Gonzalez-Bueno, G (2012) *UNICEF: La infancia en España 2010-2011. 20 años de la Convención sobre los Derechos del Niño: retos pendientes*. UNICEF España: Madrid. Retrieved February 2013 from UNICEF España <http://www.unicef.es/actualidad-documentacion/publicaciones>

Blanco Carrasco, M (2007) Normativa específica aplicable al menor. In Serrano Ruiz- Calderón, M. *Los menores en protección*. (97-160) Madrid: Difusión Jurídica y Temas de Actualidad.

Bosch Valero, J (2010) El derecho de defensa en los procedimientos de protección de menores. In Lopez Serrano I, García Sedano, R and García Fernández Y. El derecho a la protección de los niños y niñas en la Comunidad de Madrid. Vol. 2 La política social de las instituciones y administraciones: líneas de intervención presentes y futuras. (81 a 92) Madrid: Colegio Oficial de Diplomados en Trabajo Social y Asistentes Sociales de Madrid.

Burke, T(2010) *Anyone listening? Evidence of children and Young people's participation in England*. Children's Right Alliance and Participation Works. Retrieved April 2012 from participationworks.org.uk

Casas, F; González, M; Montserrat,C; Navarro, D; Malo, S; Figuer, C & Bertrán, I. (2008) *Informe técnico sobre experiencias de participación social efectiva de niños, niñas y adolescentes*. Observatorio e la infancia. Ministerio de Educación, Política Social y Deporte. Girona.

Cameron, C; Petrie, P; Wigfall, V; Kleipoedszus,S; Jasper, A (2011) *Final report of the social pedagogy pilot programme: development and participation*. Thomas Coram Research Unit, Institute of Education, University of London. Retrieved March 2012 from [http://eprints.ioe.ac.uk/6767/1/Cameron2011Final\(Report\).pdf](http://eprints.ioe.ac.uk/6767/1/Cameron2011Final(Report).pdf)

Cashmore, J (2002) Promoting the participation of children and young people in care [Electronic version] *Child abuse &Neglect* (26)837-847. Retrieved March 2013 from University of Sydney <http://sydney.edu.au/law>

Caso Señal, M; Arch Marín, M; and Jarne Esparcia, A; and Molina Bartumeus, A (2011) *Guía práctica de exploración de menores*. Las Rozas, Madrid : Sepín, D.L.

De la Herrán, A; García,C and Imaña, A (2008) Informe sobre el acogimiento residencial en centros de protección de menores: la vivencia de jóvenes ex residentes y sus familias. *Revista electrónica Iberoamericana de Investigación sobre cambio y fracaso escolar*. Año 6 N° 003 (1696-4713) Retrieved December 2012: <http://redalyc.uaemex.mx>

Durán, E. (2007) Los derechos de los niños y las niñas: marco general y puntos de debate. In Durán E and Torrado, M. Derechos de los niños y las niñas. Debates, realidades y perspectivas. (39-56). Bogotá: Universidad Nacional de Colombia. Colección CES.

Erikson, E. (1971) *Identity: Youth and Crisis*. London : Faber and Faber 1971

Eurochild. (2010)Children in Alternative Care. National Surveys. 2º Edition. Retrieved October 2012 from Eurochild: <http://www.eurochild.org>.

Fernández del Valle, J. (1999). Evaluación de programas y calidad de atención en acogimiento residencial infantil. In *Hacia una nueva concepción de la discapacidad: Actas de las III Jornadas Científicas de Investigación sobre personas con discapacidad* (pp. 367-380). Amarú.

Gaitán, L & Liebel, M (2011)Ciudadanía y derechos de participación en los niños. Síntesis: Madrid

Graves, S & Larkin, E(2006): Lessons from Erikson, *Journal of Intergenerational Relationships*. 4:2, 61-71. Retrieved November 2012. http://dx.doi.org/10.1300/J194v04n02_05

Hamalainen,J (2003) The concept of social pedagogy in the field of social work, *Journal of Social Work*, Vol 3 (1) 69 – 80

Hatton, K (2012) *Youth Inclusion and Social Pedagogy: a UK Perspective. Biennale internationale de l'éducation, de la formation et des pratiques professionnelles* (The 2012 biennial event Education Training Professional practices), 3-6 July 2012, Paris. Retrieved January 2012 from <http://eprints.port.ac.uk/8595/>

Hart, R (1992) *Children's participation. From tokenism to citizenship*. UNICEF. Spedale degli innocent. Retrieved January 2013 from <http://www.unicef-irc.org>

Lansdown, G. (2001) Promoting Children's participation in democratic decision- making. Retrieved January 2013 from UNICEF Innocenti Research Centre: www.unicef-irc.org

Lone, A (2012) Bringing about change a social pedagogic approach: Mileu pedagogic approach: Mileu pedagogy versus Milleu Therapy. *European Journal of Social Education*. N° 22/23 (1810-4789) Retrieved January 2013 from www.feset.org

Macdonald, G; Millenn,S & McCann, M (2012) *Therapeutic approaches to social work in residential child care settings*. Social Care Institute for Excellence. Retrieved May 2012 from www.scie.org.uk

Maillo, I; Rodriguez, A; Ruiz, V & Torrego, Y (2001) Intervención en residencias de protección de menores. In Torrego, J. *Alumnos con altas capacidades y aprendizaje cooperativo. Un modelo de respuesta educativa* . Madrid. 2001 Fundacion SM. Pgs 429-503

Martín Martín, P.(2010) El sistema de protección y garantía de los derechos de la infancia y de la adolescencia en la Comunidad de Madrid. In Lopez Serrano I, García Sedano, R and García Fernández Y. El derecho a la protección de los niños y niñas en la Comunidad de Madrid. Vol. 2 La política social de las instituciones y administraciones: líneas de intervención presentes y futuras. (11 a24) Madrid : Colegio Oficial de Diplomados en Trabajo Social y Asistentes Sociales de Madrid.

Martínez Ruano, P (2009) La capacidad iusfundamental del menor. In Sáinz-Cantero Caparros. *Políticas jurídicas para el menor* (85-98). Granada: Comares.

Meeus, W, Ledesma, J, Helsen,M & Vollebergh, W (1999)Patterns of Adolescent Identity Development: Review of Literature and Longitudinal Analysis.[*Electronic version*] *Developmental Review*.19 (4) 419-461. Retrieved <http://dx.doi.org/10.1006/drev.1999.0483>

Millie,A & Jacobson, J et al. (2005) Anti-social behavior strategies: finding a balance. (Ref: 0305). York: Joseph Roundtree Foundation.

Morán González, M. (2010)El Ministerio fiscal y los sistemas de guarda y custodia: especial referencia a la custodia compartida y los criterios de atribución en beneficio del menor. In Tapia Parreño, J. Custodia compartida y protección de menores. (67-116) Madrid : Consejo General del Poder Judicial, Centro de Documentación Judicial, D.L.

Morgan, R (2009) *Life in children's homes. A report of children's experience by the Children's Rights Director for England* [Electronic version] London: Ofsted. Retrieved March 2012 from www.scie-socialcareonline.org.uk/profile.asp?guid=92c246b3-6ad1-4a2d-b7a7-a63da7d52a93

Ombudsman (2009) *Informe Centros de protección de menores con trastorno de conducta*. Retrieved September 2011 from: Oficial Wesite of the Ministerio Fiscal: www.fiscal.es.

Palacios Gonzales, J (2010) Protección de la Infancia en España: La transición que no llega. In *Lopez Serrano I, García Sedano, R and García Fernández Y. El derecho a la protección de los niños y niñas en la Comunidad de Madrid. Vol. 1 La política social de las instituciones y administraciones: líneas de intervención presentes y futuras*. (13

a34) Madrid : Colegio Oficial de Diplomados en Trabajo Social y Asistentes Sociales de Madrid.

Palma del Teso, A (2006) *Administraciones públicas y protección de la infancia: En especial, estudio de la tutela administrativa de los menores desamparados*. Madrid : Instituto Nacional de Administración Pública.

Petrie, P; Boddy, J; Cameron, C; Heptinstall, E; McQuail, S; Simon, A; and Wigfall, V (2009) *Pedagogy - a holistic, personal approach to work with children and young people, across services: European models for practice, training, education and qualification*. Briefing paper. Thomas Coram Research Unit. Retrieved November 2012 from www.ncb.org.uk

Rosendal, N (2012): Action competence—a new trial aimed at social innovation in residential homes? *European Journal of Social Work*. DOI:10.1080/13691457.2012.722980. Retrieved December 2012.

Rubio, M & Varas, J (2004)
El análisis de la realidad en la intervención social : métodos y técnicas de investigación. Madrid: CCS.

Schuurman, M (2010) *Valuing children's potential. How children's participation contributes to fighting poverty and social exclusion*. Eurochild. Retrieved April 2012 from eurochild.org

Timonen Kallio,E (2012)Residential child care work –Professional knowledge,orientations and methods. [Electronic version] *European Journal of Social Education*. 22-23 (1810-4789) 37-51.

Torralba Roselló, J (2006) *Els infantsen els centres residencials d'acció educativa: protegits o estigmatitzats?* Generalitat de Catalunya Departament de Benestar i Família. Retrieved January 2013 from [http:// gencat.cat](http://gencat.cat)

UN General Assembly (1989) Convention on the Rights of the Child, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www2.ohchr.org/english/law/crc.htm> l.

United Nations Committee on the Rights of the Child (2009) *General Comment 12 (2009): The right of the child to be heard*. Retrieved November 2012 from www2.ohchr.org/english/bodies/crc/docs/.../CRC-C-GC-12_sp.doc

Wilson, K et al. (2008) *Social Work: an introduction to contemporary practice*. Harlow: Pearson Longman.

Winter, M., Baerveldt,C. and Kooistra, J. (1999) Enabling children: participation as a new perspective in child- health promotion. *Child: Care, Health and Development*. Volume 25. Number 1. 1999. 15-25, Blackwell Science LTD.

8. Appendix

1. Organic Law 1/1996, January 15th, of Judicial Protection of the Child. Article 9. The right to be heard

1. The minor has the right to be heard, not only in the family but in any administrative or judicial procedure he is directly implicated and which can lead to a decision that will affect his personal, social or family spheres.

In the judicial procedures, the minor hearings will be appropriate to the situation and the development stage of the child, preserving his privacy.

2. It will be guaranteed that the minor can exercise the right by himself or through a person designated to represent him, when having enough understanding.

Nonetheless, when this cannot be possible or convenient to the child's interest, his opinion can be known through: his legal representatives, unless they are interested party or have countered interests with the child; or through other people who, because of their professions or trust relationship with the child can transmit his opinion objectively.

3. In case the minor ask to be heard directly or by a representative, the denegation of the hearing must be motivated and communicated to the Public Prosecutor and to them.

2. Law 6/ 1995, March 28th, of Guarantee of the Rights of Childhood and Adolescence. Article 3. Proceedings principles

1. B) Safeguard the full exercise of the minor's Civil and Political Rights ³⁹ as well as the right to be heard in all decisions that matter to them, in the terms established by the Civil Code.
2. G) Promote participation in social initiatives related to childhood and adolescence attention and promotion, assuring the involvement in programs and plans launched by the Public Administration."

³⁹ The Law makes reference to "Derechos subjetivos" and not to "derechos civiles y políticos". In the aglosaxon Law, the term subjective right does not exist. In Spanish, this makes reference to the rights that people are entitled to and that appear in the legislation. The term Civil and political rights has a slight difference but it is a closer denomination.

3. Law 6/ 1995, March 28th, of Guarantee of the Rights of Childhood and Adolescence. Chapter X; Social participation. Article 23 Administrative proceedings

The Administration of the Autonomic Community of Madrid will favor:

- a. The right of social participation of the minors, creating formulas and specific services.
- b. The full participation of the minors in the closer coexistence groups according to the personal development, which will be manifested in the respect of their rights and the demand of their responsibilities.
- c. Childhood and adolescence association and the self organisation methods that contribute to learn democratic and tolerant practice.

4. 88/1998 Decree of May 21st ,Statute of Residential Care for Childhood and Adolescence Chapter 2: principles

Article 4 c) Full inclusion of the children in social resources (school, cultural settings, organisations, health institutions, etc.) and promotion of participation in different social groups. Unless it is not beneficial for the child, the proximity criteria will be respected.

h) *h)* Encouragement of the participation and responsibility of the minor in its own educational process.

Art 6 Education *d)* Benefit the minor integration to normalized sociocultural resources and promote participation in them.

Art 16 Board of residents

This is the organism by which participation in residential life is promoted and respected. It is the official channel of the opinions and interests expression, in spite of the necessary existence of other mechanisms for this and group discussions. It will be formed by children representatives in the Institutional Board and 2 representatives of each group. Due to the differences among the institutions according to age and the inhabitant's characteristics, the specific regulation must be done in each Internal Regulation Document of the residence. In the institutions or groups where children are younger than six years old, the technical team will find other educational methods to promote participation and the manifestation of interests.

By all means, there are functions of the Residents board:

a) To inform the Board Center representatives about the problems, interests and proposals of each group.

b) To inform the residents about the topic dealt with in the Residents Board.

c) To make proposals to the Institution's Management about issues of resident's interests or which affect them. If it is regarded as necessary, the proposals can be transferred directly to the Madrilean Institute of the Minor and the Family.

Art 21. Rights and duties

Children have the right to:

10. Participate in the rules elaboration and the planification of activities as well as in their exercise and enjoyment.

11. To know about their legal and family situation and to receive support in this issues.

12. To participate in their Individual Project and to be heard in all decisions that matter them, if they are older than 12 years old and before if they show they have enough understanding.

13. To be informed and guided about their rights and duties, as well as the procedures to express their opinions and claim to the responsible Juridical and Administrative Institutions

5. Proyecto: participación activa de menores en residencias infantiles: nosotros también decidimos

Descripción del proyecto

Este proyecto de grupo operativo va dirigido a chicos y chicas de 11 a 17 años en situación de acogimiento residencial con alguna medida- guarda o tutela- de la Comisión de Tutela del Menor. Se trata de sesiones grupales en las que la participación irá aumentando en los proyectos que quieran realizar, en un primer momento, para dar a conocer la vida y las características del entorno residencial al resto de la población.

Fundamentación

El concepto de infancia ha cambiado sustancialmente en los últimos años ya que antes del Siglo XX eran ignorados o tratados como adultos. La Convención de los Derechos del Niño de las Naciones Unidas- 1989 UNCRC ha sido un importante hito en esta lucha, dándoles al niño un lugar específico en la sociedad, no como objetos si no como sujeto de derechos (Lansdown 2001). Los niños deben ser protegidos por la sociedad en su conjunto. Muchos logros y derechos se han conseguido, pero quedan retos vigentes para la consecución de los mismos. Uno de los retos vigentes más importantes es el del derecho a ser oído (Artículo 12 UNCRC). En 2009, las Comisión realizó un documento acerca de este derecho y la importancia de la participación⁴⁰ en los niños no sólo para su bienestar sino el de la sociedad en general.

¿Se puede proteger a los niños y al mismo tiempo fomentar la autodeterminación, participación y el pensamiento divergente?

En España, la participación infantil está presente en la legislación, que contempla la misma a nivel familiar, social y político⁴¹.

Sin embargo, la imagen y el rol que se les asigna a los niños en la sociedad actual, dista mucho de un concepto participativo. La sociedad actual prepara a los niños para un futuro que está por venir pero les niega que vayan ejercitando esas capacidades desde

⁴⁰ United Nations Committee on the Rights of the Child (2009) *General Comment 12 (2009): The right of the child to be heard*. Retrieved November 2012 from www2.ohchr.org/english/bodies/crc/docs/.../CRC-C-GC-12_sp.doc

⁴¹ Ley Orgánica 1/1996 del 15 de Enero, de Protección Jurídica del Menor. Ley 6/1995 de la Comunidad de Madrid de los Derechos de la Infancia y Adolescencia. Decreto 88/1998 de 21 de Mayo por el que se aprueba el Estatuto de las Residencias de Atención a la Infancia y Adolescencia.

pequeños. Como refieren Casas (2008)⁴² y Gaitán & Liebel⁴³ (2010) los chicos son vistos por los adultos como menos competentes y con menos capacidades para decidir. Su participación es muchas veces vista como una amenaza ante la autoridad de padres y maestros.

El acogimiento residencial es una de las medidas que se pueden tomar para proteger a los niños de situaciones que son negativas para su bienestar. Sin embargo, es considerado como “último recurso”, cuando no hay otras alternativas⁴⁴. Los niños que viven en un entorno residencial han atravesado situaciones traumáticas, sufren de un alto nivel de exclusión y el curso de sus vidas es bastante impredecible (Timonen-Kallio 2012). Por ello necesitan múltiples oportunidades de ser oídos, de poder participar para controlar algún aspecto de sus vidas.

Si bien no hay demasiadas publicaciones que cuenten lo que piensan y sienten los niños de las residencias de menores, las existentes⁴⁵ tienen un aspecto en común: los chicos sienten que no tienen poder alguno sobre sus vidas y las decisiones que se toman que les competen.

Durante las prácticas profesionales en una residencia de menores, he podido observar y escuchar que ese sentimiento preponderaba. A su vez, pese a los esfuerzos del personal por integrarlos a la sociedad, se sienten muchas veces aislados, o mirados como “bichos raros” por la sociedad.

No existen publicaciones que estén en contra de la participación infantil. Además, existen investigaciones que dan cuenta de que la participación activa es beneficiosa para el desarrollo de los niños adolescentes: fomenta una imagen más beneficiosa de sí mismos, puede hacer que cambie la premisa del yo mismo cuando ésta es negativa, les da herramientas para su “vuelta al mundo real” y sobre todo, mejora el comportamiento⁴⁶.

⁴² Casas, F; González, M; Montserrat, C; Navarro, D; Malo, S; Figuer, C & Bertrán, I. (2008) *Informe técnico sobre experiencias de participación social efectiva de niños, niñas y adolescentes*. Observatorio e la infancia. Ministerio de Educación, Política Social y Deporte. Girona.

⁴³ Gaitán, L & Liebel, M (2011) *Ciudadanía y derechos de participación en los niños*. Síntesis: Madrid

⁴⁴ Las alternativas son: acogimiento con familia extensa o no biológica.

⁴⁵ Algunos ejemplos pueden verse en: *de la Herrán et al. 2008; Ombudsman 2009 and Amnistía Internacional 2009*

⁴⁶ Ver Cameron 2011 para ver una investigación inglesa, Lone 2012 para una llevada a cabo en Noruega, Timonen Kallio (2012) como ejemplo de una experiencia de investigación en Finlandia, Rosendal (2012) que presenta un proyecto de intervención innovadora en Dinamarca.

Creo que el entorno residencial puede verse beneficiado por esta iniciativa ya que se podrá contrarrestar en alguna medida (no muy grande) la sensación de impotencia que estos niños tienen.

Después de todo, de eso se trata el Trabajo Social, de emponderar al usuario para que pueda ayudarse a sí mismo.

Es por ello que este proyecto se orienta a propiciar la participación activa y real de los jóvenes tanto en su esfera individual como social.

Objetivos

Objetivos generales

Fortalecer y fomentar la participación de los niños

Dar a conocer a la sociedad las condiciones de la vida residencial

Objetivos específicos

Proporcionar herramientas para la expresión de opiniones y la realización de tareas

Propiciar la independencia del grupo en la tarea que desarrollan

Destinatarios y localización

El proyecto estará destinado a personas de 11 a 17 años de la residencia pública de menores Nº 43 en la Ciudad de Madrid, que se encuentran con una medida de protección administrativa de la Comunidad de Madrid. La residencia se encuentra situada en un barrio de alto poder adquisitivo.

Metodología

El grupo estará conformado por un mínimo de 8 integrantes y un máximo de 12. En principio será cerrado pero luego los participantes pondrán las reglas de acceso y permanencia al grupo. El acceso al grupo será de forma voluntaria y se les explicará individualmente a cada uno en lo que consiste el proyecto. El equipo técnico estará formado por dos personas: una hará de coordinador y la otra de observadora.

Se utilizará la metodología de Trabajo Social CON grupos orientada a la acción social⁴⁷ ya que es la que más fomenta la participación y autodeterminación del usuario. Este será un grupo operativo, en el que se busca la participación activa y real de los adolescentes mediante la realización de diferentes tareas que ellos mismo elijan.

En primer lugar, las sesiones serán más dirigidas para luego ir retirando esa especie de lo que Ausubel llama andamiaje. El rol del coordinador del grupo es el de acompañar a los participantes en la realización de esas tareas. Como sostiene Bleger (1987) quien dirija este grupo no debe posicionarse en una posición superior a los miembros sino que debe co-trabajar y co-pensar con ellos. Poco a poco la figura del coordinador se irá retirando para poder dar lugar a que el grupo crezca y sea más autónomo.

Se utilizarán diferentes técnicas del TS con Grupos ⁴⁸.

En primer lugar se utilizarán técnicas de sensibilización e integración donde se potenciará el conocimiento más profundo de los miembros entre sí y se buscará la sensibilización ante el tema de la participación y la necesidad de dar a conocer la vida de ellos en la residencia. Entre estas actividades se encuentran las dirigidas a cambiarle el determinar los objetivos que se propone el grupo y la forma en que se organizarán las futuras sesiones.

Las técnicas de resolución de conflictos serán no sólo utilizadas cuando éstos aparezcan si no también cuando comenten algún conflicto en el grupo. Las mismas tienden a hacer ver al otro que los conflictos pueden tener varias perspectivas y formas de resolución.

Las llamadas técnicas de participación y creatividad serán claves para la realización del proyecto. Al principio será el trabajador social quien las proponga para que luego sean ellos quienes tomen la iniciativa.

Por último, y si el grupo es permeable a ello, se utilizarán técnicas de representación y dramatización que les ayuden a canalizar los aspectos que no pueden resolver en la vida real o les permita.

Se trata de que elijan una tarea que les permita decidir sobre la inmediata realidad del grupo y contar a la sociedad aquello que creen necesario.

⁴⁷ Esta clasificación ha sido realizada por Kisnerman (1971), ver Rosell Poch 1998.....

⁴⁸ Ver Ruiz (2010)

Las posibles formas de que esto sea posible pueden variar desde una exposición fotográfica, un corto, una obra de teatro, una revista, un collage, un blog o página web, o alguna otra alternativa que se les ocurra.

Actividades y cronología

En principio las reuniones de grupo tendrán lugar un día durante la semana justo antes de la hora de la cena o justo después del horario asignado a las tareas escolares. El proyecto se llevará a cabo durante el curso escolar, aunque su duración puede variar según las necesidades del grupo y la fase en la que se encuentra.

Luego, si la institución lo permite y los integrantes del grupo lo determinan se cambiará el día y el horario de las futuras sesiones. Como ya se ha dicho anteriormente las actividades tenderán a fomentar la participación y la creatividad y se irán planificando semana a semana según lo que el grupo decida y el profesional considere oportuno de acuerdo a la fase que el grupo está atravesando.

La intervención del trabajador social y la cantidad de actividades que éste proponga, será inversamente proporcional a la capacidad organizativa del grupo. Mediante la observación se decidirá el curso de la siguiente programación de actividades.

Recursos

Humanos: se precisan dos personas con la formación adecuada para este tipo de intervención y con una clara convicción de que la participación infantil es posible. El coordinador puede ser el mismo trabajador social de la residencia y la persona observadora un voluntario que acuda en la hora señalada.

Físicos: se puede utilizar la sala de reuniones

Materiales: dependen de las actividades que se quieran realizar. Dado que este proyecto no recibe fondos algunos, los chicos deberán pensar también cómo conseguir el material necesario. Por ejemplo, si quieren hacer una muestra fotográfica deberán conseguir que les presten cámaras y buscar formas de hacer el revelado.

La dirección del centro colaborará con los materiales más básicos: ordenadores, papel, cartulinas, marcadores y colaborará cuando sea necesario con otros materiales.

Financieros: debido a los recortes en las áreas sociales de la Comunidad de Madrid, el proyecto no posee recursos financieros lo que es una desventaja pero también fomenta la búsqueda de alternativas de financiación tan importantes para la participación.

Evaluación

La evaluación será realizada tanto por los profesionales que intervienen como por los propios participantes. La misma se llevará a cabo en diferentes fases: luego de dos meses y al final de la misma.

Se tendrán en cuenta aspectos cuanti y cualitativos. En lo que respecta a lo cualitativo se tendrá en cuenta:

- nº de sesiones

- asistencia

- otros números que resulten de la tarea. Por ejemplo: número de personas que acudieron a la muestra fotográfica, nº de participantes de la misma, etc.

Los aspectos cualitativos tendrán especial relevancia en el proyecto. Mediante un cuestionario se les preguntará si:

- se sienten parte del grupo

- sintieron que aportaron algo al grupo

- sintieron que fueron escuchados

- sus opiniones fueron tenidas en cuenta por los otros estudiantes y por el coordinador.

- un puntaje a la experiencia

Los parámetros a evaluar también serán modificados durante el transcurso de las sesiones y habrá lugar para que los menores propongan formas de evaluación.